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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,275	06/13/2000	Upendra V. Chaudhari	YOR-2000-0168US1	7772
35195 7590 02/21/2007 FERENCE & ASSOCIATES 409 BROAD STREET PITTSBURGH, PA 15143			EXAMINER HAN, QI	
			ART UNIT 2626	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 02/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/593,275	<b>Applicant(s)</b> CHAUDHARI ET AL.	
	<b>Examiner</b> Qi Han	<b>Art Unit</b> 2626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This communication is responsive to the applicant's amendment filed on 12/01/2006.

The applicant(s) amended claims 1, 14 and 27 (see the amendment: pages 2-10).

2. The examiner withdraws the claim rejection under 35 USC 102/103, because the applicant amended all independent claims and made the arguments based on the newly amended claims, which are persuasive (see the amendment: page 13, paragraph 2 through page 15, paragraph 2).

3. It is noted that, based on the newly amended claims, a prior art search has been conducted. However, by reviewing and reconsidering the claimed language, it is believed that the claims should be further rejected under 35 USC 101 and 112 2<sup>nd</sup> respectively (see detail below).

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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Regarding claim 1, it claims “a method”, which appears, in the surface, to fall within statutory classes (a process). However, by reviewing the body of the claim, the claim, as whole, is substantially drawn to or reasonably interpreted as arranging pure (abstract) data and/or manipulating abstract algorithm, which falls within 35 USC 101 Judicial Exceptions, i.e. abstract idea. It is noted that the claimed terms “model”, “frame”, “levels”, “identity claim” can all be broadly interpreted as pure (an abstract) data. It is also noted that even though there are certain modifying words for these terms, such as the model “corresponding to a target”, levels of “phonetic detail of varying resolution”, the modified terms are still substantially pure (abstract) data in nature. Furthermore, since the claim, as whole, only involves or manipulates pure/abstract data, it would not produce a useful, tangible, **and** concrete result in a practical application. Therefore, the claim, as whole, is directed to non-statutory subject matter.

Regarding claim 14, it claims “an apparatus”, which appears, in the surface, to fall within statutory classes (a machine). However, by reviewing the body of the claim, the claim, as whole, is substantially drawn to or reasonably interpreted as arranging pure (abstract) data and/or manipulating abstract algorithm, which falls within 35 USC 101 Judicial Exceptions, i.e. abstract idea. The rejection is based on the same reason described for claim 1, because the claim recites the same or similar limitations as claim 1.

Regarding claim 27, it claims “a program storage device”. The rejection is based on the same reason described for claim 14, because the claim recites the same or similar limitations as claim 14.

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Regarding claims 2-13 and 15-26, the rejection is based on the same reason described for claims 1 and 14, because these dependent claims include the same or similar problematic limitations as claims 1 and 14 respectively.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 27 is rejected under 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 27, in the preamble it claims "a program storage device" (a machine), while in the body it recites method (process) steps, so that it is unclear which statutory class the applicant wants to claim. Therefore, the claim is indefinite.

### ***Conclusion***

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qi Han whose telephone numbers is (571) 272-7604. The examiner can normally be reached on Monday through Thursday from 9:00 a.m. to 7:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>.

QH/qh  
February 15, 2007

 2/15/07